

In the Matter of Merchant Mariner's Document No. Z-562409 and All
Other Seaman Documents
Issued to: Eunice Raymond

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1309

Eunice Raymond

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 25 May 1961, an Examiner of the United States Coast Guard at New Orleans, Louisiana revoked Appellant's seaman documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as third cook on board the United States SS AIMEE LYKES under authority of the document above described, on 14 January 1961, Appellant injured chief cook Jones assaulting him with a dangerous weapon, to wit: a deck scraper.

At the hearing, Appellant voluntarily elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and specification.

Jones testified that he was attacked by Appellant with the scraper in his hand. Appellant claimed that he was working with the scraper when punched by Jones and the latter was injured by the scraper during the struggle which followed.

No other eyewitnesses testified at the hearing except Appellant and Jones, but Appellant contends, on appeal, that he was improperly deprived of the testimony of other seaman on the ship whom he had requested the Investigating Officer to subpoena. Appellant states that these seamen would corroborate Appellant's testimony that chief cook Jones was the aggressor and Appellant acted in self-defense; but the Examiner terminated the hearing without notifying Appellant or obtaining the testimony of these members of the crew.

OPINION

The record supports Appellant's contentions to the extent that seamen requested by him to be subpoenaed by the Investigating Officer were not subpoenaed to testify on 13 February 1961 because they were "remaining with the ship" according to the Investigating

Officer (R. 5), the latter requested an adjournment (after resting his case) from 23 February to 27 March 1961 "so that witnesses aboard the SS AIMEE LYKES may be present" (R. 29), and then no further mention was made of the witnesses desired by Appellant when

the hearing reconvened for the next and last time on 10 May 1961 while Appellant was at sea after departing on a foreign voyage toward the end of April (R. 30, 31). According to the brief on appeal, the AIMEE LYKES returned to New Orleans on 2 May.

Appellant showed little or no concern for the appearance of his witnesses after the Investigating Officer apparently assumed the responsibility of subpoenaing them to appear at the hearing. Nevertheless, the case will be remanded in order to give Appellant a reasonable opportunity to complete his defense since there is also no indication that either the Investigating Officer or the Examiner made any effort after 23 February to obtain the testimony of the seamen which had been requested by Appellant.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 25 May 1961, is VACATED. The record is REMANDED for further proceedings not inconsistent with this decision.

A.C. Richmond
Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C., this 8th day of May, 1962.